

IN THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT

MARISSA WELLS and DERRICK WELLS,
individually and on behalf of the wrongful
death beneficiaries of KENDRIA WELLS, deceased;
CEDRICK LOWRY, individually and on behalf
of the wrongful death beneficiaries of TRINITY
WELLS, deceased

PLAINTIFFS

v.

CAUSE NO. 251-11-1010-CIV

MICHELIN NORTH AMERICA, INC.;
TANIA WELLS; GRACO CHILDREN'S
PRODUCTS INC.; and DOES 1-10

DEFENDANTS

CLERK'S CERTIFICATE

I hereby certify that the documents attached hereto are a true, correct and complete
copy of all process, pleadings and orders filed in this cause.

3-23-12
BARBARA DUNN, CIRCUIT CLERK OF
HINDS COUNTY, MISSISSIPPI, FIRST
JUDICIAL DISTRICT

By: 
Deputy Clerk

(SEAL OF THE COURT)

IN THE CIRCUIT COURT OF THE FIRST
JUDICIAL DISTRICT OF HINDS COUNTY, MISSISSIPPI

FILE
NOV 16 2011
BARBARA LUNN, CIRCUIT CLERK
D.C.

MARISSA WELLS AND DERRICK WELLS,
INDIVIDUALLY AND ON BEHALF OF THE
WRONGFUL DEATH BENEFICIARIES OF
KENDRIA WELLS, DECEASED;
CEDRICK LOWERY, INDIVIDUALLY AND ON BEHALF
OF THE WRONGFUL DEATH BENEFICIARIES
OF TRINITY WELLS, DECEASED

PLAINTIFFS

CIVIL ACTION NUMBER:

251-11-1010 CIV

v.

MICHELIN NORTH AMERICA, INC.;
TANJA WELLS; GRACO CHILDREN'S PRODUCTS INC.;
and DOES 1-10

DEFENDANTS

COMPLAINT
(Jury Trial Demanded)

Come now the Plaintiffs and file this Complaint against the
Defendants and allege the following:

PLAINTIFFS

1. Plaintiffs Derrick Wells and Marissa Wells are adult
resident citizens of the State of Mississippi.

2. Plaintiffs Derrick Wells and Marissa Wells are the
natural parents of Kendria Wells, deceased. They bring this
action individually and on behalf of all the wrongful death
beneficiaries of Kendria Wells.

3. Plaintiff Cedrick Lowery is an adult resident citizen of
the State of Mississippi.

4. Cedrick Lowery is the natural father of Trinity Wells, deceased. He brings this action individually and on behalf of all the wrongful death beneficiaries of Trinity Wells.

DEFENDANTS

5. Defendant Michelin North America, Inc. (Michelin) is a New York corporation with its headquarters located in Greenville, South Carolina.

6. Michelin may be served with process through its registered agent in the State of Mississippi: CT Corporation System, 645 Lakeland East Drive, Suite 101, Flowood, Mississippi 39232.

7. Defendant Graco Children's Products Inc. (Graco) is a Delaware corporation headquartered in Exton, Pennsylvania.

8. Graco may be served through its registered agent for service of process: Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

9. Graco is not authorized to do business in the State of Mississippi but is, in fact, doing business in the State of Mississippi.

10. Defendant Tanja Wells is an adult resident citizen of the State of Mississippi.

11. Defendants John Does 1-10 are corporations, entities, agencies, businesses, individuals, and the like which are

presently unknown to the plaintiffs but whose negligent acts and/or omissions proximately caused the plaintiffs' injuries and damages. Plaintiffs will amend this Complaint to allege the true capacity of these parties when they are ascertained. Plaintiffs are informed and believe that each of the Defendants designated herein as unknown is responsible in some manner for the occurrences herein alleged that proximately contributed to the damages set forth herein.

JURISDICTION AND VENUE

12. The Circuit Court of the First Judicial District of Hinds County, Mississippi has jurisdiction over defendant Michelin, as Michelin is qualified to do business in the State of Mississippi.

13. The Circuit Court of the First Judicial District of Hinds County, Mississippi has jurisdiction over defendant Tanja Wells, a Mississippi resident.

14. The Circuit Court of the First Judicial District of Hinds County, Mississippi has jurisdiction over defendant Graco pursuant to the Mississippi Long-Arm Statute, Mississippi Code Annotated § 13-3-57. The Mississippi Long-Arm Statute provides in relevant part:

Any nonresident person, firm, general or limited partnership, or any foreign or other corporation not qualified under the Constitution and

laws of this state as to doing business herein, who shall make a contract with a resident of this state to be performed in whole or in part by any party in this state, or who shall commit a tort in whole or in part in this state against a resident or nonresident of this state, or who shall do any business or perform any character of work or service in this state, shall by such act or acts be deemed to be doing business in Mississippi and shall thereby be subjected to the jurisdiction of the courts of this state.

15. Defendant Graco, a foreign corporation not qualified to do business under the Constitution and laws of Mississippi, committed a tort in Mississippi against Trinity Wells, a Mississippi resident.

16. The damages sustained by the plaintiffs occurred in the State of Mississippi.

17. Defendant Graco has sufficient minimum contacts with Mississippi such that maintenance of this suit in the Circuit Court of the First Judicial District of Hinds County, Mississippi does not offend traditional notions of fair play and substantial justice.

18. Venue is proper in the Circuit Court of the First Judicial District of Hinds County, Mississippi pursuant to Miss. Code Ann. § 11-11-3 which provides that civil actions alleging a defective product may be commenced in the county where the injury occurred.

19. The injuries described in this complaint occurred in the First Judicial District of Hinds County, Mississippi.

FACTUAL BACKGROUND

20. On March 19, 2011 Tanja Wells was driving a 2001 Chevrolet Suburban on Interstate 220 in the First Judicial District of Hinds County, Mississippi.

21. Trinity Wells, who was eight months old, was properly restrained in the Suburban in a Graco Snug Ride, Model 7440CNR2; Serial Number JJ0304062624.

22. Kendria Wells was properly restrained in the Suburban in a belt-positioning booster seat.

23. The left rear tire on the Suburban was a Michelin tire.

24. While Tanja Wells was driving the Suburban within the First Judicial District of Hinds County, Mississippi, the subject Michelin left rear tire catastrophically failed and the Suburban crashed.

25. Kendria Wells and Trinity Wells were killed.

LIABILITY OF TANJA WELLS

26. Tanja Wells, the driver of the Suburban, negligently failed to maintain proper control of the vehicle on March 19, 2011 and allowed the Suburban to crash.

27. The negligence of Tanja Wells in failing to maintain proper control of the Suburban was a proximate contributing cause of the damages described herein.

LIABILITY OF MICHELIN

28. Michelin designed, manufactured, marketed, and/or sold the tire that failed on March 19, 2011.

29. The defective tire at issue is a Uniroyal Liberator All-Terrain tire.

30. The subject Michelin tire is defective pursuant to Mississippi Code Annotated § 11-1-63 in that the tire deviated in a material way from the manufacturer's specifications or from otherwise identical units manufactured to the same manufacturing specifications.

31. The subject Michelin tire is defective pursuant to Mississippi Code Annotated § 11-1-63 in that the tire was designed in a defective manner, and the defective condition rendered the tire unreasonably dangerous to the user or consumer.

32. The subject Michelin tire is defective pursuant to Mississippi Code Annotated § 11-1-63 in that Michelin failed to provide adequate warnings and instructions regarding the safe use and maintenance of the tire.

33. At the time the subject tire left the control of Michelin, Michelin knew, or in light of reasonably available knowledge or in the exercise of reasonable care should have known, about the dangerous manufacturing, design, and warning defects in the subject tire.

34. Michelin negligently failed to recall the subject tire when it knew, or in the exercise of reasonable care should have known, of the dangerous defects that existed in the tire.

OUTRAGEOUS CONDUCT OF MICHELIN

35. Michelin participated and engaged in a deliberate course of corporate conduct that concealed the nature and extent of the defective design, manufacture, and warnings associated with this tire. The concerted actions of Michelin were designed to and did, in fact, conceal the defective nature and qualities of the tire.

36. The conduct of Michelin was a proximate contributing cause of the damages described herein.

LIABILITY OF GRACO

37. Graco designed, manufactured, marketed, and/or sold the subject Snug Ride child safety seat Trinity was riding in on March 19, 2011 when she was killed.

38. The subject Snug Ride is defective pursuant to Mississippi Code Annotated § 11-1-63 in that the Snug Ride was designed in a defective manner, and the defective condition rendered the Snug Ride unreasonably dangerous to the user or consumer.

39. The subject Snug Ride is defective pursuant to

Mississippi Code Annotated § 11-1-63 in that the Snug Ride does not contain adequate warnings and instructions regarding the safe use of the Snug Ride.

40. At the time the Snug Ride left the control of Graco this defendant knew, or in light of reasonably available knowledge or in the exercise of reasonable care should have known, about the dangerous design and warning defects of the Snug Ride.

41. Graco negligently failed to recall the subject Snug Ride when it knew, or in the exercise of reasonable care should have know, this product was defective, unreasonably dangerous, and should not be used.

OUTRAGEOUS CONDUCT OF GRACO

42. Graco participated and engaged in a deliberate course of corporate conduct that concealed the nature and extent of the defective design and warnings associated with the Snug Ride. The concerted actions of Graco were designed to and did, in fact, conceal the defective nature and qualities of the Snug Ride.

43. The conduct of Graco was a proximate contributing cause of the damages for which recovery is sought.

DAMAGES

44. The wrongful death beneficiaries of Kendria Wells are entitled to a verdict against the responsible defendants named

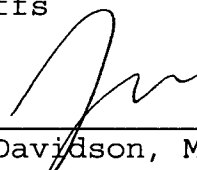
herein for all damages allowable under Mississippi law for the wrongful death of Kendria Wells.

45. The wrongful death beneficiaries of Trinity Wells are entitled to a verdict against the responsible defendants named herein for all damages allowable under Mississippi law for the wrongful death of Trinity Wells.

CONCLUSION

WHEREFORE, PREMISES CONSIDERED, plaintiffs pray for general relief, and demand a jury trial in the First Judicial District of Hinds County, Mississippi and seek an award to be determined by the jury for all damages, fees, and costs of whatever kind and type available under Mississippi law against the defendants as a result of the conduct described herein.

Respectfully Submitted
Plaintiffs

BY: 
John Davidson, MBN 9073
j davidson@dbslawfirm.net
Edward Sanders, MBN 8880
edwardlloydsanders@gmail.com

OF COUNSEL:

Davidson Bowie Sanders, PLLC
2506 Lakeland Drive; Suite 501
Flowood, MS 39232
601-932-0028 (T)
601-932-0115 (F)

Ali Shamsiddeen, Esq.
440 N. Mill Street
Jackson, MS 39202
601-965-5515 (T)
601-353-2818 (F)

IN THE CIRCUIT COURT OF THE FIRST
JUDICIAL DISTRICT OF HINDS COUNTY, MISSISSIPPI

MARISSA WELLS AND DERRICK WELLS, INDIVIDUALLY AND ON BEHALF OF THE
WRONGFUL DEATH BENEFICIARIES OF KENDRIA WELLS,
DECEASED; CEDRICK LOWERY, INDIVIDUALLY AND
ON BEHALF OF THE WRONGFUL DEATH BENEFICIARIES
OF TRINITY WELLS, DECEASED

PLAINTIFFS

v.

CIVIL ACTION NUMBER: 2011-1010

MICHELIN NORTH AMERICA, INC.; TANJA WELLS;
GRACO CHILDREN'S PRODUCTS INC.; and DOES 1-10

DEFENDANTS

SUBPOENA DUCES TECUM

TO ANY LAWFUL, AUTHORIZED PROCESS SERVER:

Pursuant to Rule 45(b) of the Mississippi Rules of Civil Procedure, I, the undersigned, do hereby command
you to summon the **City of Jackson, Jackson Police Department, Records Custodian, Jackson, Mississippi**, to appear and produce for inspection at the offices
of Davidson Bowie, PLLC, 2506 Lakeland Drive, Suite 501, Flowood, Mississippi,
39232, within 15 days of receipt of this subpoena,

Any and all records and documents maintained by the City of Jackson Police Department, including but not limited to, photographs, correspondence, memos, investigative reports, and all other documents which in any way relate to **JPD Case Number 2011-00048631 that occurred on March 19, 2011 involving a motor vehicle crash on I-220 involving Tanja Wells.**

In lieu of appearing, you may mail or hand-deliver the requested documents within 15 days of receipt to Edward L. Sanders, 2506 Lakeland Drive, Suite 501, Flowood, Mississippi 39232.

WITNESS my hand this 1 day of ^{December}~~November~~ 2011.

ATTEST A TRUE COPY

BARBARA DUNN, Circuit Clerk
Hinds County, Mississippi

DEC - 1 2011

BARBARA DUNN, CIRCUIT CLERK BY:

BY

Shalee, D.C.

FILED
DEC 5 2011
BARBARA DUNN, CIRCUIT CLERK
BY Shalee, D.C.

PROOF OF SERVICE

STATE OF MISSISSIPPI
COUNTY OF RANKIN

I, the undersigned process server, served the trial subpoena upon the person named above in the manner set forth below:

☒ I personally delivered copies of the subpoena duces tecum on the ____ day of December 2011 to City of Jackson, Patricia Ellis, City Clerk's Office.

() After exercising reasonable diligence, I was unable to serve the trial subpoena.

THIS the 1st day of December 2011.

At the time of service I was at least 18 years of age and not a party to this action.

Fee for service: \$ 0.

Process server must list below:

Name: M. Crowley

Social Security No.: _____

Address: P.O. Box 321405 JACKSON MS 39232

Telephone No.: 601 932 0028

FILED
DEC 5 2011
BARBARA DUNN, CIRCUIT CLERK
D.C.

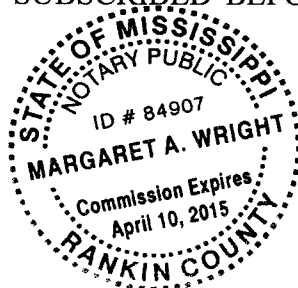
State of Mississippi
County of Rankin

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the state and county aforesaid, the within named M. Crowley who being first by me duly sworn states on oath that the matters and facts set forth in the foregoing "Proof of Service " are true and correct as therein stated.

[Signature]
Process Server

SWORN TO AND SUBSCRIBED BEFORE ME, this the 1st day of December, 2011.

My Commission Expires:



[Signature]
NOTARY PUBLIC

DAVIDSON
BOWIE, PLLC
—•—
ATTORNEYS AT LAW

John L. Davidson*
Lee Bowie

*also admitted in Texas

December 1, 2011

Barbara Dunn, Clerk
Circuit Court of Hinds County
Post Office Box 327
Jackson, MS 39205

Re: *Wells, et al. v. Michelin North America, Inc., et al.*; In the Circuit Court of Hinds County, First Judicial District, Mississippi; Civil Action No. 2011-1010

Dear Mrs. Dunn:

Enclosed please find the original and one (1) copy of the Subpoena Duces Tecum and Proof of Service for filing in the above-referenced matter. Once filed, please return a copy to us marked "Filed" in the envelope provided for your return.

Thank you.

Sincerely,

DAVIDSON BOWIE, PLLC


Maggie Wright
Paralegal

ELS/mw
enclosures

IN THE CIRCUIT COURT OF THE FIRST
JUDICIAL DISTRICT OF HINDS COUNTY, MISSISSIPPI

FILED

DEC 07 2011

BARBARA DUNN, CIRCUIT CLERK
BY _____ D.C.

MARISSA WELLS AND DERRICK WELLS,
INDIVIDUALLY AND ON BEHALF OF THE
WRONGFUL DEATH BENEFICIARIES OF
KENDRIA WELLS, DECEASED;
CEDRICK LOWERY, INDIVIDUALLY AND ON BEHALF
OF THE WRONGFUL DEATH BENEFICIARIES
OF TRINITY WELLS, DECEASED

PLAINTIFFS

CIVIL ACTION NUMBER: 251-11-1010 CIV

v.

MICHELIN NORTH AMERICA, INC.;
TANJA WELLS; GRACO CHILDREN'S PRODUCTS INC.;
and DOES 1-10

DEFENDANTS

SUMMONS

THE STATE OF MISSISSIPPI

To: Tanja Wells

NOTICE TO DEFENDANT

**THE COMPLAINT AND PLAINTIFFS' FIRST SET OF DISCOVERY REQUESTS TO
DEFENDANT TANJA WELLS WHICH ARE ATTACHED TO THIS SUMMONS ARE
IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS.**

You are required to mail or hand deliver a copy of a written response to the Complaint to EDWARD SANDERS, the attorney for the Plaintiffs, whose post office address is P.O. Box 321405, Flowood, MS 39232-1405 and whose street address is 2506 Lakeland Drive, Suite 501, Flowood, MS 39232. Your response to the complaint must be mailed or delivered *within (30) days* from the date of delivery of this summons and complaint or a judgment by default will be entered against you for the money or other things demanded in the complaint. Additionally, your responses to the attached discovery entitled, **PLAINTIFFS' FIRST SET OF DISCOVERY REQUESTS TO DEFENDANT TANJA WELLS** must be served on EDWARD SANDERS, the attorney for the Plaintiffs, within *forty-five (45) days* from the date of delivery of this summons.

You must also file the original of your response to the complaint with the Clerk of this Court within a reasonable time afterward.

Issued under my hand and the seal of said Court, this 16 day of NOVEMBER, 2011
Circuit Clerk of Hinds County, Mississippi

(SEAL)

ATTEST A TRUE COPY
NOV 16 2011
BARBARA DUNN, CIRCUIT CLERK
BY _____ D.C.

PROOF OF SERVICE

Name Of Person Served:

TANJA WELLS

FILED

DEC 07 2011

BARBARA DUNN, CIRCUIT CLERK

BY _____ D.C.

On 12/2/2011, 2011 I, the undersigned process server, served the
SUMMONS, COMPLAINT, PLAINTIFFS' FIRST SET OF DISCOVERY REQUESTS TO
DEFENDANT TANJA WELLS upon Tanja Wells who was located at the following address:

3910 Old Brandon Rd. Apartment K-77 Pearl, Ms 39208.

At the time of service I was at least 18 years of age and not a party to this action.

Process Server Information:

Name: JAMES Rayboen

Address: 1962 Shiloh Rd.

Brandon, Ms 39042

DAVIDSON
BOWIE, PLLC
— • —
ATTORNEYS AT LAW

John L. Davidson*
Lee Bowie

*also admitted in Texas

December 5, 2011

Barbara Dunn, Clerk
Circuit Court of Hinds County
Post Office Box 327
Jackson, MS 39205

Re: *Wells, et al. v. Michelin North America, Inc., et al.*; In the Circuit Court of Hinds
County, First Judicial District, Mississippi; Civil Action No. 2011-1010


Dear Mrs. Dunn:

Enclosed please find the original and one (1) copy of the Summons and Proof of Service
for filing in the above-referenced matter. Once filed, please return a copy to us marked "Filed" in
the envelope provided for your return.

Thank you.

Sincerely,

DAVIDSON BOWIE, PLLC


Maggie Wright
Paralegal

ELS/mw
enclosures

THE CREASEY LAW OFFICE, PLLC

Samuel F. Creasey
P.O. Box 4939
Jackson, Mississippi 39296-4939
Telephone: 601-981-7338
Facsimile: 601-981-3083

February 1, 2012

Hinds County Circuit Court
Barbara Dunn, Circuit Clerk
P.O. Box 327
Jackson, Mississippi 39205

Re: Marissa Wells, et al v. Michelin North America, et al: In the Circuit Court of The First Judicial District of Hinds County, Mississippi; Civil action #251-11-1010CIV

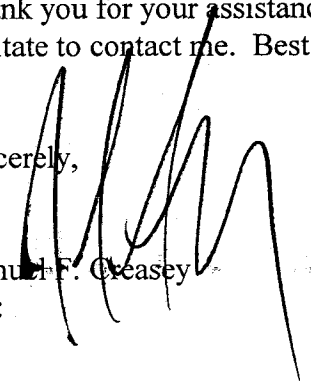
Dear Ms. Dunn:

Please find enclosed for filing in the above- styled case the originals and one (2) copies of the following documents in the above referenced case along with the civil cover sheet. Please file and return the file stamped copy to me in the self-addressed and stamped enclosed envelope.

1. Answer and Affirmative Defenses of Tanja Wells and Cross-Claim of Tanja Wells
2. Summons (To be issued)
 - Michelin North America, Inc;
 - Graco Children's Products Inc.

Thank you for your assistance in this matter. Should you have any questions, please do not hesitate to contact me. Best regards,

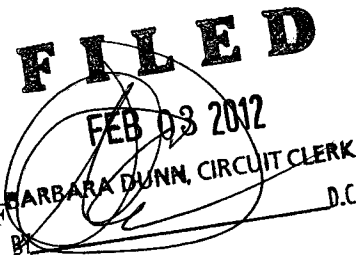
Sincerely,


Samuel F. Creasey
enc:

(Cc: John Davidson & Ed Sanders)

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL DISTRICT
OF HINDS COUNTY, MISSISSIPPI

MARISSA WELLS AND DERRICK WELLS,
INDIVIDUALLY AND ON BEHALF OF THE
WRONG DEATH BENEFICIARIES OF
KENDRIA WELLS, DECEASED;
CEDRICK LOWERY, INDIVIDUALLY AND ON BEHALF
OF THE WRONGFUL DEATH BENEFICIARIES
OF TRINITY WELLS, DECEASED



PLAINTIFFS

V.

CIVIL ACTION NO.:251-11-1010CIV

MICHELIN NORTH AMERICA, INC.;
TANJA WELLS [DEFENDANT/CROSS-PLAINTIFF,
INDIVIDUALLY AND AS MOTHER
AND ON BEHALF OF WRONG DEATH BENEFICIARIES OF
TRINITY WELLS, DECEASED];
GRACO CHILDREN'S PRODUCTS INC.; AND DOES 1-10

DEFENDANTS

V.

MICHELIN NORTH AMERICA, INC.;
GRACO CHILDREN'S PRODUCTS INC.; AND DOES 1-10 CROSS-DEFENDANTS

**ANSWER AND AFFIRMATIVE DEFENSES OF TANJA WELLS
AND CROSS CLAIM OF TANJA WELLS AGAINST MICHELIN NORTH AMERICA,
INC.; GRACO CHILDREN'S PRODUCTS INC.; AND DOES 1-10**

COMES NOW, the defendant/cross-plaintiff, Tanja Wells, by and through counsel, and files her Answer and Affirmative Defenses to plaintiffs' complaint and asserts her cross claim against defendants Michelin North America, Inc., Graco Children's Products Inc. and Does 1-10 for cause of action against the defendants and demands a jury trial and in so doing states and alleges the following:

FIRST DEFENSE

The plaintiffs' complaint fails to state a claim against Tanja Wells and should be dismissed under the provision of MRCP 12(b)(6).

SECOND DEFENSE

Tanja Wells affirmatively pleads all defenses set forth in MRCP 8© that she may assert in her favor. Tanja Wells reserves the right to amend her answer later to add to these defenses.

THIRD DEFENSE

Tanja Wells asserts all rights she has pursuant to MCA 85-507 (1972), as amended.

FOURTH DEFENSE

Plaintiff(s)' injuries and damages were caused by the negligence, actions and/or inactions of persons/entities other than Tanja Wells and/or caused by the caused by the negligence, actions and/or inactions of Michelin North America, Inc., Graco Children's Products Inc. and/or Does 1-10.

FIFTH DEFENSE

Tanja Wells denies that plaintiffs are entitled to punitive damages against Tanja Wells.

RESERVATION OF DEFENSES

Tanja Wells is without knowledge or information sufficient to form a belief as to whether other defenses or affirmative defenses apply in this matter. However, contingent on the facts revealed through investigation and discovery, Tanja Wells expressly reserves her rights to raise any additional defenses and affirmative defenses which may be applicable.

ANSWER

PLAINTIFFS

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.

DEFENDANTS

- 5. Admitted.
- 6. Admitted.
- 7. Admitted.
- 8. Admitted.
- 9. Admitted.
- 10. Admitted.
- 11. Admitted.

JURISDICTION AND VENUE

- 12. Admitted.
- 13. Admitted.
- 14. Admitted.
- 15. Admitted.
- 16. Admitted.
- 17. Admitted.
- 18. Admitted.
- 19. Admitted.

FACTUAL BACKGROUND

- 20. Admitted.
- 21. Admitted.
- 22. Admitted.
- 23. Admitted.

24. Admitted.

25. Admitted.

LIABILITY OF TANJA WELLS

26. Denied.

27. Denied.

LIABILITY OF MICHELIN

28. Admitted.

29. Admitted.

30. Admitted.

31. Admitted.

32. Admitted.

33. Admitted.

34. Admitted.

OUTRAGEOUS CONDUCT OF MICHELIN

35. Admitted.

36. Admitted.

LIABILITY OF GRACO

37. Admitted.

38. Admitted.

39. Admitted.

40. Admitted.

41. Admitted.

OUTRAGEOUS CONDUCT OF GRACO

42. Admitted.

43. Admitted.

DAMAGES

44. Admitted only to the extent that the defendants are defendants other than Tanja Wells. Tanja Wells denies owing any damages under Mississippi law and further denies negligence, actions and/or inactions that contributed to and/or caused the incident at issue and/or the resulting damages.

45. Admitted only to the extent that the “defendants” alleged in paragraph 45 are defendants other than Tanja Wells. Tanja Wells denies owing any damages under Mississippi law and further denies negligence, actions and/or inactions that contributed to and/or caused the incident at issue and/or the resulting damages.

CONCLUSION [OF ANSWER TO COMPLAINT]

Tanja Wells denies the allegations to the extent they pertain to Tanja Wells of the unnumbered paragraph beginning “WHEREFORE PREMISES CONSIDERED.” Tanja Wells further denies that plaintiffs are entitled to any judgment against her for any sum of money whatsoever. And now having fully answered the plaintiffs’ complaint, Tanja Wells respectfully demands to be dismissed.

CROSS-CLAIM OF TANJA WELLS V. MICHELIN NORTH AMERICA, INC.;

GRACO CHILDREN’S PRODUCTS INC.; AND DOES 1-10

Comes now the defendant/cross-plaintiff, Tanja Wells, individuality, and on behalf of wrongful death beneficiaries of Trinity Wells, deceased and files this Complaint/Cross-Claim

against defendants/cross-defendants and alleges the following:

CROSS-PLAINTIFF(S)

46. Tanja Wells is an adult resident citizen of the State of Mississippi and is the natural mother and a wrongful death beneficiary of Trinity Wells, deceased, a Mississippi resident.

CROSS-DEFENDANTS

47. Defendant/cross-defendant Michelin North America, Inc. (hereinafter "Michelin") is a New York corporation with its headquarters located in Greenville, South Carolina.
48. Michelin may be served with process through its registered agent in the State of Mississippi CT Corporation System, 645 Lakeland East Drive, Suite 101, Flowood, MS 39232.
49. Defendant/cross-defendant Graco Children's Products Inc. (hereinafter "Graco") is a Delaware corporation with its headquarters located in Exton, Pennsylvania.
50. Graco may be served with process through its registered agent for service of process: Corporation Service Company, 2711 Centerville Rd, Suite 400, Wilmington, Delaware 19808.
51. Graco is not authorized to do business in the State of Mississippi but is, in fact, doing business in the State of Mississippi.
52. Defendants John Does 1-10 are corporations, entities, agencies, businesses, individuals, and the like which are presently unknown to the plaintiffs but whose negligent acts and/or omissions proximately caused the plaintiffs' injuries and damages. Plaintiffs will amend this

complaint to allege the true capacity of these parties when they are ascertained. Plaintiffs are informed and believe that each of the defendants/cross-defendants designated herein as unknown is/are responsible in some manner for the occurrences herein alleged that proximately contributed to the damages set forth herein.

JURISDICTION AND VENUE

53. The Circuit Court fo the First Judicial District of Hinds County, MS has jurisdiction over defendant/cross-defendant Michelin, as Michelin is qualified to do business in the State of Mississippi.
54. The Circuit Court of the First Judicial District of Hinds County, MS has jurisdiction over defendant/cross-defendant Graco pursuant to the Mississippi Long-Arm Statute, MCA 13-3-57.
55. Defendant/cross-defendant Graco, a foreign corporation not qualified to do business under the Constitution and laws of Mississippi, committed a tort in Mississippi against Trinity Wells, a Mississippi resident.
56. The damages sustained by Tanja Wells occurred in Mississippi.
57. Defendant/cross-defendant Graco has sufficient minimum contacts with Mississippi such that maintenance of this suit is the Circuit Court of the First Judicial District of Hinds County, Mississippi does not offend traditional notions of fair play and substantial justice.
58. Venue is proper in the Circuit Court of the First Judicial District of Hinds County, Mississippi pursuant to MCA 11-11-3 which provided that civil actions alleging a defective product may be commenced in the county where the injury occurred.

59. The injuries described in this complaint occurred in the First Judicial District of Hinds County, Mississippi.

FACTUAL BACKGROUND

60. On March 19, 2011 Tanja Wells was driving a 2001 Chevrolet Suburban on Interstate 220 in the First Judicial District of Hinds County, Mississippi.
61. Trinity Wells, who was eight months old, was properly restrained in the Suburban in a Graco Snug Ride, Model 7440CNR2; Serial # JJ030406224.
62. The left rear tire on the Suburban was a Michelin tire.
63. While Tanja Wells was driving the Suburban within the First Judicial District of Hinds County, Mississippi, the subject Michelin left rear tire catastrophically failed and the Suburban crashed.
64. Trinity Wells was killed and Tanja Wells suffered serious injuries and incurred damages as a result of the wreck.

LIABILITY OF MICHELIN

65. Michelin designed, manufactured, marketed, and/or sold the tire that failed on March 19, 2011.
66. The defective tire at issue is a Uniroyal Liberator All-Terrain tire.
67. The defective tire is defective pursuant to MCA 11-1-63 in that the tire deviated in a material way from the manufacturer's specifications or from otherwise identical units manufactured to the same manufacturing specifications.
68. The tire is defective pursuant to MCA 11-1-63 in that the tire was designed in a defective manner, and the defective condition rendered the tire unreasonably

dangerous to the user or consumer.

69. The tire is defective pursuant to MCA 11-1-63 in that Michelin failed to provide adequate warnings and instructions regarding the safe use and maintenance of the tire.
70. At the time the subject tire left the control of Michelin, Michelin knew, or in light of reasonably available knowledge or in the exercise of reasonable care should have known, about the dangerous manufacturing, design, and warning defects in the subject tire.
71. Michelin negligently failed to recall the subject tire when it knew, or in the exercise of reasonable care should have known, of the dangerous defects that existed in the tire.

OUTRAGEOUS CONDUCT OF MICHELIN

72. Michelin participated and engaged in a deliberate course of corporate conduct that concealed the nature and extent of the defective design, manufacture, and warnings associated with this tire. The concerted actions of Michelin were designed to and did, in fact, conceal the defective nature and qualities of the tire.
73. Michelin's conduct was a proximate contributing cause of the damages described herein and the sole proximate cause of the personal injuries and damages related thereto of Tanja Wells.

LIABILITY OF GRACO

74. Graco designed, manufactured, marketed, and/or sold the subject Snug Ride child safety seat Trinity was riding in on March 19, 2011 when she was killed.

75. The defective Snug Ride is defective pursuant to MCA 11-1-63 in that the Snug Ride was designed in a defective manner, and the defective condition rendered the tire unreasonably dangerous to the user or consumer.
76. The Snug Ride is defective pursuant to MCA 11-1-63 in that the Snug fit does not contain adequate warnings and instructions regarding the safe use of the Snug Ride.
77. At the time the Snug Ride left the control of Graco, Graco knew, or in light of reasonably available knowledge or in the exercise of reasonable care should have known, about the dangerous design, instructions and warning defects of the Snug Ride.
78. Graco negligently failed to recall the subject Snug Ride when it knew, or in the exercise of reasonable care should have known, this product was defective, unreasonably dangerous, and should not be used.

OUTRAGEOUS CONDUCT OF GRACO

79. Graco participated and engaged in a deliberate course of corporate conduct that concealed the nature and extent of the defective design, manufacture, and warnings associated with the Snug Ride. The concerted actions of Graco were designed to and did, in fact, conceal the defective nature and qualities of the Snug Ride.
80. Graco's conduct was a proximate contributing cause of the damages for which recovery is sought.

DAMAGES

81. The wrongful death beneficiaries of Trinity Wells are entitled to a verdict against the responsible cross-defendants named herein for all damages allowable under Mississippi law for the

wrongful death of Trinity Wells.

82. The Plaintiff and the Estate and Wrongful Death Beneficiaries of Trinity Wells suffered damages including but not necessary limited to the following: Loss of value of life expectancy of Trinity Wells; Value for Trinity Wells' conscious pain and suffering prior to her death; and Trinity Wells' funeral and burial expenses.

83. By reason of said injuries and the death of Trinity Wells, Tanja Wells and the Father and siblings of Trinity Wells have suffered mental anguish, depression, and anxiety. The Plaintiff, on behalf of herself individually and on behalf of Wrongful Death Beneficiaries of Trinity Wells, further claims all damages available under Mississippi law whether or not specifically listed herein.

84. The acts and omissions of the cross -defendants described hereinabove were grossly negligent and show a willful and wanton disregard for the safety of the Plaintiff(s). Therefore, Tanja Wells, individually and as Mother of ,and on behalf of the Wrongful Death Beneficiaries of, Trinity Wells is/are entitled to punitive damages.

85. As a further direct and proximate cause of cross-defendant's negligence and disregard for Tanja Wells' safety and well-being and other negligent, reckless and/or intentional acts, Tanja Wells suffered bodily injuries and incurred substantial monetary damages. These damages may include, but are not necessarily limited to the following:

- a. past, present and/or future medical expenses;
- b. past, present and/or future physical pain and suffering and scarring;
- c. past, present and/or future mental and emotional distress;
- d. past, present and/or future lost wages and/or loss of wage earning capacity;
- e. damage to credit/credit worthiness;

f. inconvenience and discomfort; and

g. any other relief, which the Court or jury deems just or appropriate based upon the circumstances.

WHEREFORE, premises considered, Cross-Plaintiff(s) demand a jury trial and judgment against the defendant for actual, compensatory and punitive damages and any other relief which the Court and/or Jury deems just and appropriate.

Respectfully submitted,

**TANJA WELLS [DEFENDANT/CROSS-
PLAINTIFF], INDIVIDUALLY AND AS
MOTHER AND ON BEHALF OF
WRONG DEATH BENEFICIARIES OF
TRINITY WELLS, DECEASED**

By: 

SAMUEL F. CREASEY (MSB No. 99555)

Counsel for Cross-Plaintiff:

The Creasey Law Office, PLLC

Post Office Box 4939

Jackson, Mississippi 39296

Telephone: (601) 981-7338

Facsimile: (601) 981-3083

CERTIFICATE OF SERVICE

I, Samuel F. Creasey, attorney for Defendant/Cross-Plaintiff, Tanja Wells, individually and as mother and on behalf of Wrongful Death Beneficiaries of Trinity Wells, Deceased , do hereby certify that I have mailed by United States mail, postage prepaid, a true and correct copy of the above and foregoing to:

Davidson Bowie Sanders, PLLC
2506 Lakeland Drive, Suite 501
Flowood, MS 39232

This the 1 day of February, 2012.



SAMUEL F. CREASEY (msb. 99555)

IN THE CIRCUIT COURT OF THE FIRST
JUDICIAL DISTRICT OF HINDS COUNTY, MISSISSIPPI

FILED

FEB 28 2012

BARBARA DUNN, CIRCUIT CLERK

BY _____ D.C.

MARISSA WELLS AND DERRICK WELLS,
INDIVIDUALLY AND ON BEHALF OF THE
WRONGFUL DEATH BENEFICIARIES OF
KENDRIA WELLS, DECEASED;
CEDRICK LOWERY, INDIVIDUALLY AND ON BEHALF
OF THE WRONGFUL DEATH BENEFICIARIES
OF TRINITY WELLS, DECEASED

PLAINTIFFS

CIVIL ACTION NUMBER: 251-11-1010 CIV

v.

MICHELIN NORTH AMERICA, INC.;
TANJA WELLS; GRACO CHILDREN'S PRODUCTS INC.;
and DOES 1-10

DEFENDANTS

SUMMONS

THE STATE OF MISSISSIPPI

To: Michelin North America, Inc.

NOTICE TO DEFENDANT

**THE COMPLAINT AND PLAINTIFFS' FIRST SET OF DISCOVERY REQUESTS TO
DEFENDANT MICHELIN NORTH AMERICA, INC. WHICH ARE ATTACHED TO THIS
SUMMONS ARE IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT
YOUR RIGHTS.**

You are required to mail or hand deliver a copy of a written response to the Complaint to EDWARD SANDERS, the attorney for the Plaintiffs, whose post office address is P.O. Box 321405, Flowood, MS 39232-1405 and whose street address is 2506 Lakeland Drive, Suite 501, Flowood, MS 39232. Your response to the complaint must be mailed or delivered *within (30) days* from the date of delivery of this summons and complaint or a judgment by default will be entered against you for the money or other things demanded in the complaint. Additionally, your responses to the attached discovery entitled, **PLAINTIFFS' FIRST SET OF DISCOVERY REQUESTS TO DEFENDANT MICHELIN NORTH AMERICA, INC.** must be served on EDWARD SANDERS, the attorney for the Plaintiffs, within *forty-five (45) days* from the date of delivery of this summons.

You must also file the original of your response to the complaint with the Clerk of this Court within a reasonable time afterward.

Issued under my hand and the seal of said Court, this 16 day of NOVEMBER, 2011

ATTEST A TRUE COPY

Circuit Clerk of Hinds County, Mississippi

By: _____

BARBARA DUNN, CIRCUIT CLERK

D.C.

(SEAL)

PROOF OF SERVICE

Served upon: Michelin North America, Inc. c/o CT Corporation System

I the undersigned process server, served the Summons, Complaint and Discovery upon the person or entity named above in the manner set forth below:

X **PERSONAL SERVICE.** I personally delivered the Summons, Complaint and Discovery to JOANIE JONES on the 23rd day of FEBRUARY, 2012, where I found said person(s) in Rankin County of the State of Mississippi.

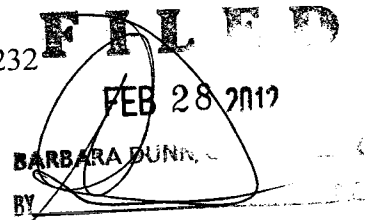
At the time of service I was at least 18 years of age and not a party to this action.

Process server must list below:

Name: Maggie Wright

Address: 2506 Lakeland Drive, Suite 501, Flowood, MS 39232

Telephone No.: 601-932-0028



State of Mississippi
County of Rankin

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the state and county aforesaid, the within named Maggie Wright who being first by me duly sworn states on oath that the matters and facts set forth in the foregoing "Proof of Service" are true and correct as therein stated.

Maggie Wright
Process Server

SWORN TO AND SUBSCRIBED BEFORE ME, the 23rd day of February 2012.



[Signature]
NOTARY PUBLIC

DAVIDSON BOWIE SANDERS PLLC

2506 LAKELAND DRIVE, SUITE 501
POST OFFICE BOX 321405
FLOWOOD, MISSISSIPPI 39232
DBSLAWFIRM.NET

February 27, 2012

Barbara Dunn, Clerk
Circuit Court of Hinds County
Post Office Box 327
Jackson, MS 39205

Re: *Wells, et al. v. Michelin North America, Inc., et al.*; In the Circuit Court of Hinds
County, First Judicial District, Mississippi; Civil Action No. 2011-1010


Dear Mrs. Dunn:

Enclosed please find the original and one (1) copy of the Summons and Proof of Service for
filing in the above-referenced matter. Please file the original and return the stamped filed copy to
our office in the provided envelope.

Thank you.

Sincerely,

DAVIDSON BOWIE SANDERS, PLLC


Maggie Wright
Paralegal

ELS/mw
enclosures

FILED

MAR 15 2012

BARBARA DUNN, CIRCUIT CLERK
BY _____ D.C.

IN THE CIRCUIT COURT OF THE FIRST
JUDICIAL DISTRICT OF HINDS COUNTY, MISSISSIPPI

MARISSA WELLS AND DERRICK WELLS,
INDIVIDUALLY AND ON BEHALF OF THE
WRONGFUL DEATH BENEFICIARIES OF
KENDRIA WELLS, DECEASED;
CEDRICK LOWERY, INDIVIDUALLY AND ON BEHALF
OF THE WRONGFUL DEATH BENEFICIARIES
OF TRINITY WELLS, DECEASED

PLAINTIFFS

CIVIL ACTION NUMBER: 251-11-1010 CIV

v.

MICHELIN NORTH AMERICA, INC.;
TANJA WELLS; GRACO CHILDREN'S PRODUCTS INC.;
and DOES 1-10

DEFENDANTS

SUMMONS

THE STATE OF MISSISSIPPI

To: Graco Children's Products Inc.

NOTICE TO DEFENDANT

**THE COMPLAINT AND PLAINTIFFS' FIRST SET OF DISCOVERY REQUESTS TO
DEFENDANT GRACO CHILDREN'S PRODUCTS INC. WHICH ARE ATTACHED TO THIS
SUMMONS ARE IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT
YOUR RIGHTS.**

You are required to mail or hand deliver a copy of a written response to the Complaint to EDWARD SANDERS, the attorney for the Plaintiffs, whose post office address is P.O. Box 321405, Flowood, MS 39232-1405 and whose street address is 2506 Lakeland Drive, Suite 501, Flowood, MS 39232. Your response to the complaint must be mailed or delivered *within (30) days* from the date of delivery of this summons and complaint or a judgment by default will be entered against you for the money or other things demanded in the complaint. Additionally, your responses to the attached discovery entitled, **PLAINTIFFS' FIRST SET OF DISCOVERY REQUESTS TO DEFENDANT GRACO CHILDREN'S PRODUCTS INC.** must be served on EDWARD SANDERS, the attorney for the Plaintiffs, within *forty-five (45) days* from the date of delivery of this summons.

You must also file the original of your response to the complaint with the Clerk of this Court within a reasonable time afterward.

Issued under my hand and the seal of said Court, this 16 day of NOVEMBER, 2011

Circuit Clerk of Hinds County, Mississippi

By _____

(SEAL)

ATTEST A TRUE COPY

NOV 16 2011

BARBARA DUNN, CIRCUIT CLERK
BY _____ D.C.

PROOF OF SERVICE

FILED

Served upon: Graco Children's Products, Inc. c/o Corporation Service Company

MAR 15 2012

I the undersigned process server, served the Summons and Complaint on the person or entity named above in the manner set forth below:

BARBARA DANN, CIRCUIT CLERK
BY [Signature] D.C.

☒ **PERSONAL SERVICE.** I personally delivered the Summons and Complaint to Paul Mathews, Registered Agent Representative on the 1st day of March, 2012, where I found said person(s) in New Castle County of the State of Delaware.

At the time of service I was at least 18 years of age and not a party to this action.

Process server must list below:

Name: DEANE CRESSMAN, Deputy Sheriff
Address: Sheriff's of New Castle County
Telephone No.: 800N French Street, 5th floor, Wilmington, DE 19801
(302) 395-8454

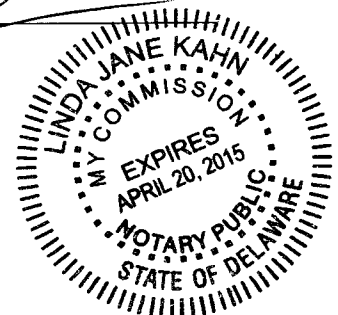
State of Delaware
County of New Castle

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the state and county aforesaid, the within named Deane Cressman who being first by me duly sworn states on oath that the matters and facts set forth in the foregoing "Proof of Service" are true and correct as therein stated.

Deane Cressman
Process Server Deputy Sheriff

SWORN TO AND SUBSCRIBED BEFORE ME, this the 7 day of April, 2012.

Linda Jane Kahn
NOTARY PUBLIC





**Office of the Sheriff
New Castle County, Delaware**

Trinidad Navarro
Sheriff

Louis L. Redding City/County Bldg.
800 N. French Street
Wilmington, DE 19801
Office: 302-395-8450, Fax: 302-395-8460

3/2/2012

AFFIDAVIT OF SERVICE

STATE OF DELAWARE)

) SS

NEW CASTLE COUNTY)

Court Case # 251-11-1010

MARISSA WELLS AND DERRICK WELLS ET AL

vs

GRACO CHILDREN'S PRODUCTS, INC

Deane Cressman, being duly sworn, deposes that he/she is a Deputy Sheriff and avers that he/she served upon and left personally upon Registered Agent Representative **PAUL MATHEWS** at **CORPORATION SERVICE COMPANY 2711 CENTERVILLE ROAD SUITE 400 WILMINGTON, DE 19808** on 3/1/2012 at 10:55 AM a copy of SUMMONS AND COMPLAINT for **GRACO CHILDREN'S PRODUCTS, INC.**

The Deponent further avers that he/she knew the person so served to be the same person as mentioned in the Out of State document.

Sheriff # 12-002201

**Deane Cressman
DEPUTY SHERIFF
NEW CASTLE COUNTY**

STATE OF DELAWARE)

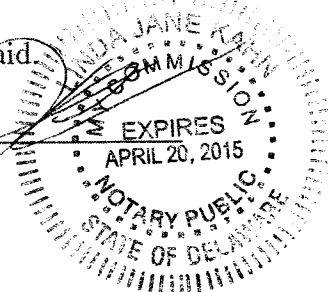
) SS

NEW CASTLE COUNTY)

BE IT REMEMBERED that on 3/2/2012 personally came before me, the Subscriber, a Notary Public of the State of Delaware, Deane Cressman, a Deputy Sheriff of New Castle County and State of Delaware, and stated that the facts stated above are true and correct.

SWORN AND SUBSCRIBED before me, the date and year aforesaid.

[Signature]
Notary Public



DAVIDSON BOWIE SANDERS PLLC

2506 LAKELAND DRIVE, SUITE 501
POST OFFICE BOX 321405
FLOWOOD, MISSISSIPPI 39232
DBSLAWFIRM.NET

March 13, 2012

Barbara Dunn, Clerk
Circuit Court of Hinds County
Post Office Box 327
Jackson, MS 39205

Re: *Wells, et al. v. Michelin North America, Inc., et al.*; In the Circuit Court of Hinds
County, First Judicial District, Mississippi; Civil Action No. 2011-1010

Dear Mrs. Dunn:

Enclosed please find the original and one (1) copy of the Summons and Proof of Service for
filing in the above-referenced matter. Please file the original and return the stamped filed copy to
our office in the provided envelope.

Thank you.

Sincerely,

DAVIDSON BOWIE SANDERS, PLLC


Maggie Wright
Paralegal

ELS/mw
enclosures